AF

Certification Under 37 CFR 1.10

I hereby certify that this paper and the documents referred to as attached therein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Denise Ortega
Name

April 11, 2005
Date

Denise Ortega
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jan Zavada et al.

Serial No.: 09/967,237 Group Art Unit: 1642

Filed : September 27, 2001 Examiner: David J. Blanchard

For : MN Gene and Protein

AMENDMENT TRANSMITTAL

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Va 22313-1450

Sir:

Transmitted herewith is a response to the Final Office Action mailed from the U.S. Patent and Trademark Office (PTO) on February 11, 2005

No fee should be required for the accompanying response. The fee for claims has been calculated as shown below:

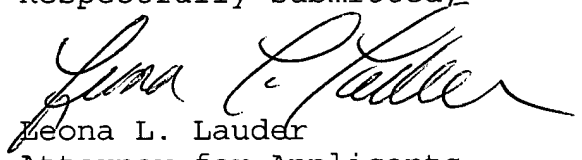
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	12	MINUS	29	= 0	X $ 50	$ 0.00
INDEP.	3	MINUS	3	= 0	X $ 200	$ 0.00

[ ] FIRST PRESENTATION OF MULTIPLE DEP. CLAIM + $360 $

TOTAL $ 0.00

However, should any additional fees be determined to be necessary in connection with this paper, Applicants respectfully request that any such additional fees be charged to Deposit Account No. 12-0615.

Respectfully submitted,



Leona L. Lauder
Attorney for Applicants
Registration No. 30,863

Dated: April 11, 2005

Response under 37 CFR 1.116
Expedited Procedure -
Examining Group 1600

Certificate of Mailing [37 CFR 1.8(a)]

I hereby certify that this paper and the documents referred to as attached therein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail addressed to the: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandra, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jan Zavada et al.

Serial No.: 09/967,237 Group Art Unit: 1642

Filed : September 27, 2001 Examiner: David J. Blanchard

For : MN Gene and Protein

AMENDMENT AFTER FINAL
UNDER 37 CFR 1.116

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Amendment After Final for the above-identified application is in response to the Final Office Action mailed from the U.S. Patent and Trademark Office (PTO) on February 11, 2005, and is being submitted within the two month period from that mailing date. Applicants respectfully request that this

Amendment After Final be entered in accordance with 37 CFR § 116(a) and with the Manual of Patent Examining Procedure (MPEP) §§ 714.12 and 714.13.

Applicants respectfully submit that the instant Amendment After Final does not raise any new issues and presents the rejected claims "in condition for allowance." [MPEP § 714.12.] Detailed reasoning supporting the absence of any new issues and the allowability of the claims as amended follows below, after the Remarks section, which section shows support for the claim amendments in the Specification. Applicants respectfully request that this Amendment After Final be entered, and that the claims as amended be allowed.

Telephone Interview of March 7, 2005

Applicants gratefully acknowledge the telephone interview granted by Examiners Larry Helms and David Blanchard on March 7, 2005. In that interview, Applicants proposed an amendment to the independent claims to address the 35 USC 112, 1st paragraph rejection. The proposed amendment specifies that the claimed anti-idiotype antibody comprises an internal image that corresponds to an MN protein/polypeptide "epitope," wherein said MN protein/polypeptide is encoded by SEQ ID NO: 1 or by polynucleotides that differ from SEQ ID NO: 1 due to the

degeneracy of the genetic code. The Examiners indicated that such an amendment would be acceptable.

Further, Applicants respectfully requested clarification of the nature of the two §103(a) rejections in view of the sentence in the Office Action at the bottom of page 11 reading that "Applicant's arguments are not persuasive in the absence of objective evidence providing a factual basis that **the monoclonal antibody M75 was not publicly available.**" [Emphasis added.] Applicants questioned whether that sentence meant that the 103(a) rejections were being based on a "public use" in the United States more than a year prior to the priority date for the subject application under 35 U.S.C. §102(b), which rejection Applicants respectfully pointed out was a different and new rejection than that based upon the "printed publication in this or a foreign country . . . " part of 35 U.S.C. §102(b). Examiner Helms indicated that a 103(a)/102(b) "public use" rejection was not what had been intended, but that "publicly available" was used in the sense that he had assumed that the Oosterwijk et al., WO 88/08854 application had been accompanied by a deposit [in an international depository] of the hybridoma producing the G250 monoclonal antibody ("Mab").

Applicants responded that in fact no such deposit of the G250 hybridoma had been made in conjunction with WO

88/08854. Applicants pointed out that the G250 hybridoma was not deposited at an International Depository under the Budapest Treaty until September 11, 2001 as recorded in Example 1 of US 2004/0077081 A1 at page 3 (col. 1), where Oosterwijk et al. admitted that although "a general immunization protocol" was given in WO 88/08854, that in WO 88/08854 "[f]urther informations, e.g., a molecular characterization of the G250 antibody and the G250 hybridoma cell are lacking."

Applicants also pointed out that none of the prior art references, notably neither Pastorekova et al. nor Oosterwijk et al., identified or characterized the MN protein or any MN nucleic acid. The MN amino acid sequence and MN cDNA sequence were first disclosed in the earliest U.S. priority application for the instant application, filed Oct. 21, 1992.

Applicants further informed the Examiners that Wilex, the company working with Oosterwijk et al. on the G250 Mab, had unsuccessfully opposed the Zavada et al. granted European patent, corresponding to the earliest U.S. priority application to the instant application, and then taken a license under the Zavada et al. patents/applications. Examiner Helms indicated that such evidence was persuasive evidence of nonobviousness, and that Applicants should enter the above information into the record in the response to the Final Office Action.